THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.15318 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the action of the respondent in impounding the petitioner's her passport bearing No.B-5208412 is arbitrary and illegal.`

The facts are as under:

On 31-3-2001 the petitioner was issued a passport bearing No.B-5208412. It is stated that from the news item appeared in Deccan Chronicle dated 12.10.2005, she came to know that her passport was impounded by the respondent. Since no other details were furnished, the petitioner got issued a legal notice dated 26.5.2006. In response, by letter dated 14.6.2006, the petitioner was informed by the respondent that her passport was impounded vide orders dated 23.9.2004. On a further request made by the petitioner, a copy of the letter dated 9-9-2005 was furnished to the petitioner in which it was stated that a show-cause notice dated 31.8.2004 was issued calling upon her to explain regarding the criminal case pending against her. However, the said show-cause notice was returned undelivered, and therefore the respondent having regard to impounded her passport under Section 10(3)(e) of the Passport Act, 1967 (for short "the Act").

Aggrieved by the said action of the respondent, this writ petition is filed contending *inter alia*, that mere registration of a criminal case does not empower the respondent to impound the passport. At any rate, since the petitioner was not afforded reasonable opportunity to submit her explanation to the allegations made against her, the order of impounding is arbitrary, illegal and in violation of the principles of natural justice.

In the counter-affidavit filed by the respondent, it is alleged that the petitioner is facing a criminal case in a Court of law and Non-

Bailable Warrants are pending against her. It is further alleged that a show cause notice was issued to the petitioner to the address available in the passport application and the same was returned undelivered with an endorsement that there was no such person. In the circumstances, the respondent was constrained to pass the order impounding the passport under Section 10(3)(e) of the Act.

I have heard the learned Counsel for both the parties.

The learned Counsel for the petitioner submits that though in the copy of the First Information Report, which was enclosed to the report of the Additional Superintendent of Police, dated 19.8.2005, the present address of the petitioner was furnished, the show cause notice was sent to the address which was mentioned in the application for passport and, consequently, the petitioner did not receive the same and was denied an opportunity to submit her explanation.

The learned counsel for the respondent contended that since a remedy of appeal is available under Section 11 of the Act, the petitioner cannot maintain this writ petition without exhausting the said alternative remedy of appeal.

Since, admittedly, the show cause notice was not served on the petitioner and the passport was impounded without taking her version into consideration, it would not be appropriate to drive the petitioner to the Appellate Forum under the Act. Instead, I deem it appropriate to set aside the order of impounding dated 23.9.2004, and to permit the petitioner to submit her explanation to the show cause notice dated 31.8.2004, enclosed to the counter filed by the respondent, within a period of three weeks from the date of receipt of this order. On receipt of such explanation, the respondent shall consider the same and pass appropriate orders afresh in accordance with law.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

3rd August, 2006.

Kgr.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.15318 OF 2006

3rd August, 2006.

Between:

Ms. D. Meenakshi. .. Petitioner.

And

The Regional Passport Officer,
D.No.8-2-215 to 219, Adjacent to Prasanth
Theatre, Kummaraguda, Secunderabad. ..
Respondent.